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Federal Communications Commission
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Reference: 04-440 Petition for DSL Forbearance by Verizon.

I am the General Manager and part owner of a small, rural Internet Service Provider in Brownwood, Texas. Because of Verizon business practices and predatory pricing as detailed herein, my company has lost roughly 20% of its business base and cash flow over the course of the past year. I have a wholesale contract with Verizon to resell DSL. I am not a Lawyer and for that reason, I am presenting my comments in essay format in opposition to Verizon's Petition.

1. Background

I remember when a modem was an acoustical coupler with a handset stuck in it that worked at about 300 baud. Thanks to legislation, regulation and the Department of Justice with Judge Greene presiding over the trial, AT&T and other Local Exchange Carriers had to open up their networks and AT&T was broken up into seven entities - now four - that were charged with the responsibility of operating local service and maintaining the wires.

Competition took it from there. As a matter of fact, competition was what divestiture was all about. Total monopoly over all telecommunications services was considered undesirable and against the national interest.

Yet at this time it should be obvious to even the most disinterested observer that the four Regional Bell Operating Companies have successfully embarked on a course to restore their monopoly powers and stranglehold on wire line telecommunications within their geographical territories. Given that the two largest cellular companies are owned by one or more RBOCs, it would appear that wireless is headed in the same direction.

So what has changed?

I remember when entrepreneurs, Universities and people just having fun developed local computer bulletin board systems and the Usenet. Then the Federal Government and other entities cooperated to develop a standard protocol that thereby allowed Long Distance carriers to develop the means to network local nodes together using that standard protocol.

We call this network the Internet, the World Wide Web. And phone companies, as a culture, hated it while embracing it for their own use. They hated it, in my opinion, because of all that lovely retail money being made by entities they didn't control; those upstarts were using "their" wires to make money. Whether it is a competitive CLEC or ISP, the corporate culture of an RBOC does not look with favor on those who would use "Their" wires to make a profit, in my opinion.

The RBOC approach to the Internet was barely "me too." Innovation was something that someone else did. Instead, the RBOC's focused on getting into the long distance business, which meant they had to temporarily - as it turns out - allow a bunch of upstarts to use their legacy wires to make money. After that objective was achieved, their legion of lawyers and lobbyists started the real campaign; restoration of their total monopoly.



Here is what one of the RBOCs had to say on the subject of competition:

"UNE-P is not real competition. It is simply a subsidy for companies like WorldCom and AT&T that is totally dependent on companies like SBC being able and willing to make all the capital investment and absorb all the profit margin pressure. True competition invests in facilities. True competition innovates and provides a differentiated product to customers. True competition cares about service. UNE-P is simply false competition. It relies on subsidies, invests nothing, builds nothing and ultimately hurts everyone's ability to raise capital and invest." —Edward Whitacre, SBC Chairman and CEO

Mr. Whitacre conveniently forgets that the telecommunications plant for which his company is supposed to be the custodian was installed under regulations that guaranteed a profit for SBC. No such similar guarantee now exists for those he expects to string wires and install plant so they can compete with SBC.

Mr. Whitacre conveniently ignores the fact that his entry into Long Distance generated no new facilities investment. SBC is simply reselling InterExchange carrier services. In other words, Mr. Whitacre's company is doing exactly what he complains that others are doing. The difference is that competitive pressure among long distance carriers guarantees Mr. Whitacre a very attractive rate for wholesale long distance.

The reality is that UNE-P rates pay for the use of the lines and creates a competitive climate that Mr. Whitacre apparently doesn't like. Mr. Whitacre has no hesitation using someone else's investment to make money, so long as he is able to protect his own monopoly and deny access to those who would compete with him.

One area of interest is that most Local Exchange Carriers, especially the Regional Bell Operating Companies (RBOC) have proven to be totally inept at competing in the fast track, rapid innovation business climate as the Internet evolved. Services offered have been "me-too" and late in arriving.

But the RBOC's are adept at manipulating regulation and regulators. Here is one example:

About a decade ago, the RBOCs and other large ILECs moved from traditional rate-of-return regulation to new forms, generally known as rate caps.

Under rate-of-return, their expenses were subtracted from revenues and the gross profit was compared to the un-depreciated plant in service, the rate base, producing a rate of return. Aggregate rates were adjusted (in a General Rate Case) to create a rate of return within a set range. The good thing was that overall rates were kept in line. The bad thing was that there was incentive to pad the rate base, and little incentive to be efficient. Small rural ILECs generally remain under rate of return regulation, both at the federal and state level. Note that the ILECs love to point out that rates of return were never "guaranteed", but it was mighty close.

In the 1993-ish era, the RBOCs requested, both at the FCC (access rates) and states, an "Alternate form of regulation" (AFOR), as it is sometimes known. These generally took the rates in effect at that time (theoretically based on rate of return) and then allowed the ILECs to raise or lower the rates within a certain band, capped at the high end by inflation minus a productivity factor. Sometimes not all rates are equally flexible under AFOR -- states can be protective of the 1FR rate, for instance, and not all state AFOR plans are equally flexible. But the key is that their rate of return is no longer capped.

So if they slash expenses (lay off lots of people, as they did) or if it turns out that their rate base records were hugely padded (as they were), they don't have to cut rates. Also this happened at the time when the benefits of new technology (cheaper switching, cheaper fiber optic transmission, DLCs replacing long loops) were beginning to outweigh increases in labor and related operating costs. Thus the RBOCs' typical rate of return has risen tremendously.



The only rates that I have personally seen drop are those where a CLEC exerted competitive pressure. But Mr. Whitacre's compensation has certainly benefited from the higher rate of return as can be seen in any SEC filing. In 2003, for example, he made roughly 20 million dollars, not counting stock options.

That was then. Now there is no doubt in my mind that at least three of the four remaining Regional Bell Operating Companies are attempting to take over as much of the Internet Service business as possible in addition to killing off as much other competition as they can get away with. There is also no doubt in my mind that they have the money, the lawyers and the lobbyists necessary to accomplish their business purposes.

Friends of mine who either now work for or are retired from an RBOC say the RBOCs know they missed the initial "Internet Revolution." With broadband now looming large in the public mind as an evolving, secondary revolution, the RBOCs, in my opinion, want to control 100% of the data that moves over "their" wires in the form of broadband DSL or such other services as they deem appropriate and profitable. In other words, they have no intention of missing the current revolution. Given that their retail DSL service is sold below cost, which affects their rate of return, I am not at all sure it is about money.

Bluntly, they are willing to roll over anyone and anything that gets in their way. One very good example is the Northpoint debacle wherein that company had invested a huge sum of money in "facilities," then ran into problems competing. Verizon, acting under an obligation imposed on them by the FCC during the merger between Bell Atlantic and GTE, entered into a contract to purchase 55% of Northpoint then later reneged on the deal, which was one reason Northpoint shut down.

Northpoint and Verizon were to have merged their DSL operations and the shut down stranded over 100,000 customers. Eventually AT&T purchased certain assets of Northpoint at an extremely low price. Northpoint sued Verizon and settled several years later under controversial circumstances. Then Verizon wanted to count the settlement against their obligation.

All four Regional Bell Operating Companies have filed what are called "forbearance" petitions with the FCC that, if granted, effectively deregulates DSL and associated competitive rules, making DSL a monopoly of each respective RBOC organization. Forbearance has been filed as an attempt, in my opinion, to forestall what I believe to be justifiable accusations of monopolistic business practices. No other reason makes sense since Verizon, for example, controls over 90% of the DSL in their territory anyway.

Please note the points made in the section devoted to Business Practices.

If the FCC grants the petitions, the RBOCs will be protected, in theory, for those monopoly business practices and pricing that have effectively granted the RBOCs in excess of 90% of the market share for their in-house subsidiary versus those independents who have a retail or wholesale contract with any one or more of those same RBOCs, with the possible exception of Qwest. Of course that is just my opinion.

Now they want the power of exclusivity for DSL within each of their monopoly territories. Each RBOC paints a rosy picture of consumer benefit if they get their way and dire consequences if they do not. But as always with this type of service dislocation, there will be unanticipated consequences; the RBOC "Spin" leaves out as much or more than it addresses. And of course one would be advised to take note of what an RBOC does as opposed to what they say they will do.

For example, here is a quotation from a Congressman's point of view:

"The broadband decision also reflects an apparent unwillingness or inability to learn the lessons of the past.

"In the late 1980s, immediately after the breakup of AT&T, the Bell companies sought relief of the restriction prohibiting them from entering the information services marketplace. They argued that if they were permitted into information services, that would give them the incentive to deploy fiber-to-the-home.

"As Dave Barry might say, 'I am not making this up.'



"Judge Harold Greene eventually let them into that business but they didn't deploy. Instead, they came back to Congress and the FCC and said that only if they were allowed into the cable TV business would they have the necessary revenue stream to deploy fiber-to-the-home. So in the Telecommunications Act, we bent over backwards to facilitate their entry into cable.

"But again, they didn't get into cable to any great degree and they didn't deploy fiber-to-the-home. Why? Well, because they said they now needed 'Inter-LATA data relief' for the emerging Internet marketplace. When they finally got around to opening their markets and obtaining long distance approval in their respective States, as you can now guess: they didn't deploy fiber-to-the-home. Neither did they criss-cross the country with newly built long distance networks. They simply re-sold in large part the long distance services of AT&T, MCI, and Sprint.

"Yet by then they had a new request.

"Again, I am not making this up.

"They said that if you de-regulate their new investments for high-speed service, take out pesky competitors in the broadband marketplace, and remove certain regulatory oversight, then they'd really be going gangbusters getting fiber out to people's homes. They wanted a policy of 'new wires, new rules.'

"Last Thursday, three of you agreed to endorse this proposition. And almost immediately afterwards, the Bell companies announced that they weren't going to invest. They will not deploy; that the premise of 4 years of legislation and months of your work at the FCC was nothing more than a 'fiber fable.'

"By endorsing the policy of 'new wires, new rules' the Bells say what we will now get is 'no new hires, no new investment.'

"Do you feel betrayed? You guys look like Charlie Brown after Lucy pulls the football away. The Bells pulled it right out from under you." —Representative Ed Markey (D-MA) in his statement to a house subcommittee hearing on the FCC.

The RBOCs succeeded in getting "New wires, New Rules" where they did not have to share fiber connectivity, by promising fiber to the home through huge investments. Then it was fiber to the curb, then fiber to the neighborhood, followed by fiber anywhere, we don't share.

With that as a background, here is my take on the regulatory and possible legal issues involved as well as some economic, consumer and technology considerations. Most of my point of view is associated with the fact that I am a rural Internet provider. I believe that there are differences between the telecommunications climate in urban areas versus that in rural areas.

Since regulators and legislators have always recognized the difference between urban and rural operations, those of us in jeopardy of losing our ability to operate out here in the country are in hopes that something can be done, and soon, to give us a level playing field in which to operate. This is not, to quote Michael Powell, a "Hyperbole, chamber of horrors."

Simply put, Local Exchange Carriers, especially at least three of the Regional Bell Operating Companies, are engaged in business practices that insure the demise of rural Internet providers. This means the reduction in the availability of general computer technology in rural areas, higher prices for consumers and less choice.

Now the RBOCs have asked for Forbearance, to bless what has already happened and allow the RBOCs to take over the 10% of the business they do not yet completely own.



I have been attempting to understand FCC rules that govern what a LEC can and can't do in the realm of enhanced services, which is the category where DSL is defined. If you read Robert Cannon's diatribes carefully, you will be as informed and likely to be as confused as I am. By "Enhanced services," I mean the ISP industry for the purposes of this writing although I suppose that enhanced services include voice mail, caller ID, long distance and the like. As a small ISP, I cannot afford to hire a Telecommunications Attorney, so I have had to do my own research.

I believe that I have discovered a true "Chamber of Horrors," wherein those companies with the cash, the lawyers and the lobbyists have been able to slowly gut the Telecommunications Act of 1996 of any real meaning when it comes to competition. Local Exchange Carriers, most especially including Verizon, SBC and BellSouth, apparently paid lip service to competitive regulations long enough to be allowed into the long distance business and once that benchmark was achieved, began a campaign to kill off as much of that same competition as they could, one incremental regulatory or business structure step at a time.

At one point in time, the FCC was hell bent on ensuring that competition was "allowed" to exist for enhanced and other services. Over time, it would appear that much of the original protection has been either eroded by legal opinion, regulatory activity or ignored. By "allowed," I mean that without the active cooperation of the local phone company, competition is simply impossible.

Robert Cannon wrote "Where Internet Service Providers and Telephone Companies Compete: A Guide to the Computer Inquiries, Enhanced Service Providers and Information Service Providers" in May of 2001 and although he has disclaimers all over the document identifying it as his opinion and understanding - not to reflect that of the Commission itself, his title is: Senior Counsel for Internet Issues, Office of Plans and Policy Federal Communications Commission, which means to me that he should know what he is talking about

I have used his guide in an attempt to discover what the FCC can and cannot do and compare that with what they have really done, if anything, to insure competition. After all, one of their divisions is called the "Wireline Competition Bureau," which may or may not be aptly named.

If someone is going to compete with the phone company using phone company controlled wires, there are a number of areas of concern, not the least of which are: comparable pricing, business practices, slamming and networks, to name a few.

Please keep in mind while you read this that the Internet revolution is not the product or brainchild of local exchange carriers as a group, or Regional Bell Operating Companies -- it is the product of competition and innovation. But if competition is reduced or eliminated, innovation will be eliminated and costs to the consumer will rise even as we lose our lead in telecoms innovation.

Currently there are two methods of delivering broadband to consumers; one is via cable modem and the other through telephone wires (DSL). Yes, there is limited service available via fixed wireless using regulated and unregulated bandwidth, but that methodology has a very limited footprint. And yes, there are all sorts of possible new sources to include distribution via power lines and through G3 technology, but neither is likely to have much of an impact for years. It should be noted that the two largest wireless providers are Verizon and SBC/BellSouth. 802.11 as a delivery method, has limited availability and suffers from reliance on unregulated spectrum. Satellite, as a delivery medium, suffers from the need for high price and issues with transmitters.

Cable isn't ubiquitous; telephone wires are. And the technology exists to bring broadband DSL to virtually every phone line in the United States; all that is needed is deployment. In those cases where the customer is located beyond the reach of DSL or subject to "Digital Single Carrier," the technology exists to extend the range of broadband. There are no real limitations except in a very, very few rural situations where the cost might be prohibitive.

Broadband is cheap to deploy. The capital cost for DSL equipment is between \$75.00 and \$100.00 per customer served. In rural areas where "Pair-gain" equipment is used extensively, there is an additional capital cost requirement to change out older field terminals for new ones that will pass DSL traffic in those areas where a BOC wants to make the investment.



2. Pricing and Cost Issues - predatory prices crush competition.

The FCC says they cannot and will not police predatory pricing. If a LEC chooses to sell retail at a price point that is less than the wholesale price, they can do it. They are also allowed to "bundle" services. At the same time, cross subsidization and accounting rules apply, which means they aren't supposed to subsidize unregulated services from regulated revenues, if I understand the point.

The latest filing for Verizon (2003) shows a loss from unregulated activities in excess of EIGHT HUNDRED MILLION dollars. This is from the ARMIS database at the FCC. I asked the FCC if that number included DSL revenues and expenses and received an ambiguous answer; "Sometimes." I suspect that 2004 will show an increase in the amount listed if it indeed contains DSL revenue and cost figures.

So where does the money come from to subsidize the losses? The money obviously comes from regulated services revenue. So that makes it cross subsidization by definition. The profits from regulated services allow the Bell companies to crush competition in my opinion.

Please note that this figure (800 million) is what they admit. The real number could very well be much higher. I base that comment on a reputed remark from the then Chairman of the Oklahoma Public Utilities Commission, who once said [paraphrasing] that if all of the Certified Public Accountants in the State of Oklahoma were to be employed for a year analyzing the cash flow of the phone company, at the end of that year it would still be impossible to figure it out.

Further, please note that this figure is for all of their unregulated activities, not just the ISP business. That said, caller ID, voice mail and similar services are HUGE profit centers for any LEC. So with profit from that source, how much any given LEC is really losing in the provision of retail ISP services - specifically DSL service through its unregulated subsidiary - is almost impossible to know.

I have been unable to find a record of the most recent FCC audit - something that is required - for any LEC or RBOC. I did search the online database, which is where I found the 800 million dollar number in the ARMIS database. Someone please tell me whether the FCC has ever performed any audits. I have been unable to find any public record that any audits have been performed as required.

One FCC staffer has suggested that while the FCC has no power with regard to pricing for enhanced services, the Department of Justice does in the form of a potential anti-trust complaint. Yet throughout FCC proceedings for Computer II and III and the Telecommunications Act, there is a plethora of comment about insuring competition, which now turns out to be so much blather about nothing much - if in fact the FCC has no power over pricing and will NOT enforce cross-subsidization rules or perform audits.

Without the ability to regulate price or the will to enforce common sense cross-subsidization rules, it is obvious that any and all efforts by the FCC to insure competition are moot - witness that any given LEC typically controls upwards of 90% of the DSL market within its market area. If that isn't a monopoly, then what is it? Some studies say that owning 40% of the market (as AOL once did in dialup) gives a company monopoly pricing power. So what does 90% of the market mean?

Yet at the same time, cable companies have been able - at HIGHER prices - to garner more of the broadband market. This leads to an interesting point: An RBOC buries its own partners with predatory pricing, yet is unable to achieve parity with the cable industry.

So long as the phone company is willing to sell at retail below their cost of doing business, competitors have no hope of competing. The SBC VP of Finance once said that they are not selling DSL below cost and he named a figure that if memory serves is \$26.95 a month. If you go to the FCC database for 2003, you will note that SBC claimed a loss of 500 million for enhanced services.



Given that SBC makes a huge profit from most enhanced services, then one has to wonder if said VP was being disingenuous with his remarks. Or perhaps he was using some sort of convoluted math that showed a profit for DSL at some future date under conditions he did not explain, such as a price increase once competition was destroyed.

Just for the record, here is what I envision Verizon Online's costs to be. I doubt that I am off by any significant amount, but may not have it down to the exact penny. The amounts are per month per customer.

\$26.95 Payment to Verizon - this is a tariff amount.

\$ 2.43 USF - Verizon requires this

\$ 2.00 Payment to MSN - no public record that I can find and this is based on an SBC-Yahoo deal. For all I know, MSN may be performing for free but I doubt it.

\$ 3.00 Bandwidth - I actually think this is low, but I am giving them the benefit of the doubt that they have held Level 3's feet to the fire and gotten a good deal. This cost is also averaged over urban and rural locations, with rural areas having much higher costs unless Verizon has a sweetheart deal with Level 3.

\$ 1.50 Customer service - at least.

\$ 1.50 Billing and Collections - payment to Verizon for bill stuffing and the cost of accounting.

\$ 1.30 Administrative overhead - ok, so I guessed.

Ok, we are up to roughly \$39.00 per month or so, at least. Even if bandwidth costs are lower, there are a number of other overhead costs that have to be added, such as the amortized cost of customer acquisition plus churn. Given that Verizon is spending a fortune to acquire customers, that number is likely to be very, very high.

Please don't forget churn, which adds a significant number to the cost of acquiring customers. Then you have to add in the usual accounting numbers such as depreciation, company retirement funding and SBC or Verizon general management costs, plus regulatory costs, legal expenses, equipment and a host of other expenses that are part of the cost structure irrespective of whether the entity is operated as a subsidiary or in house.

At \$34.95, their unbundled residential price, or \$39.95, their unbundled lowest business price, there is no way Verizon Online is covering its cost of doing business. Of course there is always the incentive program, which yields Verizon Online \$150.00 per customer per quarter for each net increase in customer count. If Verizon Online's contract is similar to their standard wholesale contract, the money is supposed to be spent on CPE equipment and so certified by their Chief Financial Officer. In other words, it is not available, in theory, to cover the \$60.00 Verizon installation charge or overhead expenses.

I used to do cost accounting, rate analysis and tariff filing for a regulated industry, the railroads. We used formulas that calculated costs based on our out-of-pocket cost and for our fully distributed costs depending on how bad we wanted the business. If we were going for a high rate because the customer had no choice, then we used fully distributed cost formulas. If, on the other hand, we were facing competition, then we used out-of-pocket costs to make our case to the regulators when we filed the tariff.

I would be shocked if the phone industry did not have similar practices.

But wait, as they say on TV, there is more. Second telephone lines are going away. In point of fact, line count is down because of competition from CLECs to an extent, but more likely because second phone lines are discontinued as consumers shift to DSL instead of a dedicated dialup line. In addition, PRI lines - where analog Internet connections are answered, are also likely to be down as consumers move from dialup to DSL or cable, so that source of revenue is reduced. Further, as customers shift from local, facilities based Internet providers to those who use VNXX supported wholesale operations, each RBOC loses 93 cents on the dollar in revenue or more for dialup connectivity circuits.

It could very well be that the ARMIS database does not accurately reflect profit and loss from retail Internet activities by Verizon. That said, there is absolutely no doubt in my mind, nor should there be in anyone's mind that Verizon and SBC are selling below cost. Given that they make a profit from their wholesale contracts, why on earth are they are they doing it?



Early on, Verizon Online charged \$59.95 for their lowest priced business DSL service. Our own company was doing well competing with that rate, signing the bulk of those businesses we contacted. So Verizon Online lowered their price to \$39.95 and gave away three free months. At that price, they do not make a profit, but they are successful in signing up the bulk of smaller businesses that tend to be cost conscious and once again, Verizon destroys "competitors" in favor of their unregulated subsidiary which doesn't make a profit at the expense of their independent affiliates, from whom they do make a profit.

The bottom line is simple. Verizon has retail and wholesale contracts with independent providers at a cost that is higher than their lowest priced "retail" bundled price and an unbundled price little more than the wholesale price. The result is that over 90% of DSL customers have chosen to save money (temporarily in my opinion), by taking the lower price from the unregulated subsidiary instead of an independent. This is monopolistic practice, by any definition, in my opinion.

3. Business Practices

The scenario is that a BOC has an unregulated subsidiary that competes in the open market with companies that have a wholesale (or retail) contract with the parent BOC for the same service. In this instance, I am addressing DSL where, for example, Verizon has roughly 600 entities that have a contract to resell DSL as provided by Verizon Advanced Services, or so I have heard. The true number may be less.

One of those entities is Verizon Online. And only Verizon Online enjoys the following:

- a. Each caller to the business office of the phone company hears a pitch for DSL and referrals ONLY go to Verizon Online. It doesn't matter if you are calling for new service, to pay a bill, or whatever, you will hear a pitch for Verizon Online through music-on-hold or from the representative you speak with.
- b. Verizon field personnel get credit for referrals that result in the installation of DSL, but only in areas where Verizon Online operates and only if the customer subscribes to Verizon Online. Some field personnel are quick to allege that repairs will be more prompt and successful if the subscriber switched to Verizon Online - this during repair procedures advanced by wholesale contractors.
- c. Verizon.com features prominent mention of DSL on its home pages - and links to Verizon Online exclusively.
- d. Verizon offers "bundles" that include VOL DSL service at a discount. I understand this is not illegal or against regulations - but should be if true competition is to work -- at least until competitors can offer Verizon-like phone services, perhaps through VoIP
- e. Verizon telemarketers, presumably under contract with Verizon Online, contact each Verizon retail customer, including those currently serviced by another company under a Verizon LEC DSL contract and, when they discover that one of "their competitors" is furnishing service, offer discounts if the customer will switch.
- f. Verizon Online can turn in an order to switch a Verizon DSL customer from another provider to themselves without challenge.
- g. Many Verizon LEC repair personnel have a DSL modem as part of their issued equipment. I have heard of cases where that same modem is left at a customer premise when a VOL customer's modem has failed. I have been unable to determine if this is general practice or just something that the repairperson is doing on his or her own initiative.
- h. Verizon Online calls each new customer I turn in with a lower price offer.
- i. All of the above practices are limited to Verizon Online, period.

I am unable to find any FCC reference advancing the notion that any of the above practices are allowed by regulation or not allowed except for "Bundling," which, according to Cannon, is allowed. It seems to me that it is in the power of the FCC to force the LECs to bundle with all of their wholesale entities, not just the subsidiaries, but the FCC has not chosen to insure competition with that approach.

Many years ago, a regulated LEC was prohibited from marketing or co-marketing its unregulated subsidiary's services. I have no clue when these practices became legal or how. And yes, I have asked any number of people, including Attorneys, without receiving an explanation I could understand.



4. Slamming and other dubious business practices.

Internal Lawyers for Verizon have made an interesting ruling that governs their internal business practice for DSL services. In the event Verizon Online turns in a service order for a customer who is using someone other than VOL for DSL service (called a "Competitive ISP"), then that order is processed without notification being made to the current account holder or even a confirmation call. This creates a number of problems.

First of all, if the end user customer did NOT intend that their account be moved, the first notion that something is amiss is when their DSL link goes down and they get a modem in the mail. The first indication that a customer is potentially lost seen by the "Competitive ISP," is when they get an email notice that the service has been transferred to "Another ISP."

For example, we initiated an order for residential DSL service to the owner of a company we service as a business DSL customer. In due course, we received notification that the order was complete. It didn't work. Repeated calls to Verizon for repair went nowhere. We thought the problem was associated with an extremely old demark box on the side of the house.

A Verizon field tech told the customer that if they had been on Verizon Online, their problem would have been solved a long time ago. He gave her a number to call. The Verizon Online representative, who identified himself or herself as "Verizon," promised to fix the problem with the customer's permission.

Sometime later, the customer gets a modem and I get an email. The end result is that the customer wrote a note that I then filed with Verizon attesting who they wanted service with, and a supervisor with Verizon ADS persuaded Verizon DSL repair to be more thorough - which traced the problem to a Central Office fault that was quickly fixed.

I just received another notice that a customer was moving to another DSL provider. The particular customer in question owes me money. So they move to another DSL provider - here read Verizon Online, to avoid paying me. And there is nothing I can do about it.

Can you say "Chicanery?" Can you say "Slamming?" Verizon is well aware of the situation and is doing absolutely nothing to stop it; I have been told that nothing can be done about the torrent of complaints on this subject.

5. Networks.

In order to service our DSL customers, we are required to plug into Verizon's VADS at a central LATA location that in our case is in San Angelo. We purchase bandwidth from AT&T and have it delivered to a location down the street from the central office where Verizon has its serving point. We then purchase a local loop from Verizon to reach the DSL stack. In other words, we pay twice for the bandwidth - once to AT&T and once to Verizon. And rates are not cheap. We pay roughly \$700 to AT&T for 1.5Mb and over \$500 to Verizon. When I asked for a Verizon price for a partial 3Mb, it was over \$2,500.00 A MONTH. So we operate with two 1.5Mb circuits and split our customer base between them.

I asked for collocation from AT&T - denied. I asked for some sort of collocation from Verizon - denied. Now I know for a fact that AT&T has direct circuits between themselves and Verizon. What I do not know is exactly how Verizon Online plugs into Verizon. But I have strong suspicions that somehow Verizon Online gets its bandwidth from Level 3 and that Level 3 has a collocation agreement given that it is the successor company to Genuity.

Getting the real facts is almost impossible. And I know of no FCC audit to determine if any given LEC is or isn't in compliance with FCC rules governing this area of concern, which is one that is clearly within the FCC ability to regulate.



On the other hand, here are remarks from Russ Uhte <russlists@parallax.ws>, an Internet Service Provider located in Indiana.

"Let me take this opportunity to vent some related frustrations... We are also in Indiana. We contacted Verizon in October of 2004 to become a DSL reseller. We wanted to start out with a full DS/3 to terminate the DSL circuits, and placed that order in October. We knew from talking to local Verizon techs that Verizon was planning on launching their own service very soon, so we wanted to be first in the market here.

"So Verizon had to run fiber to our facilities, and that order was placed and expected to be done around Oct 16th. October 16th came and went without a single word. We call our rep, and our rep tells us that the ticket has been canceled by _US_. Which isn't even possible!!! Our rep tells us that they contacted us about extended charges that we'd have to pay, and we declined to pay them, so they canceled the order!!!

"So the order is replaced with out any real explanation, but this time they tell us they have to do some type of report to estimate additional charges... We say, whatever, just get it done!!! In the mean time we ask our rep to get us a T-1 ordered so we can start offering something...

"So we receive a call the beginning of Nov stating that our cost for the fiber build is going to be \$17k... \$17k for a 1 mile fiber build??? Give me a break!!! We have over 70 miles of fiber that we've build our selves, we know exactly how much it costs to run/terminate/splice fiber, and it's nothing close to that!!!

"Our sales rep tells us that we can file a waiver if we would like, so we start that process... Meanwhile, our T-1 finally is installed, and we're getting ready to hook up our first test site (my house) when Verizon starts nailing the radio/tv/direct mailing with DSL Available through us now!!!

"So now we're a week behind, we've already lost some of our dial-up sector to Verizon, and we call to check on our fiber build waiver, and inform our rep that this is anti-competitive behavior, and that if something isn't done quickly, we're contacting the Regulatory Commission... The next day, all of the sudden, the waiver isn't necessary, our sales rep made the \$17k up-front cost go away, and 1 week later, our ds/3's up...

"So in summary, our launch was pushed back a complete month by Verizon, so that Verizon could launch first, and therefore cost us a bunch of customers, and they're retailing here for the same price we pay... At least we can always fall back on our service!!"

And that isn't the only area where it would appear that Verizon Online benefits from its relationship with Verizon in ways that others with contracts do not. We have no way of knowing when or if Verizon will turn on a given location for DSL until that location suddenly gets a response in the database. By location, I mean both a central office area, which in rural terms means a town, or remote area, which means, in rural terms, a remote terminal that acts as a sub-central office to deliver DSL.

Well, there is one other way of finding out. When my customers start calling me asking about Verizon's telemarketing calls to their home and/or business offering DSL, I know the area is now open for DSL. I have no proof how Verizon Online gets the information. All I now is I can't and somehow they can. Maybe they have a platoon of people sitting at terminals trying numbers until they hit gold.

Again, the FCC could regulate this, but they do not, as near as I can tell.

6. Customer Service

Both Verizon Online and SBC have contracts with third parties to provide certain services. SBC uses Yahoo.com and Verizon uses MSN. MSN provides email and home page service - so it would appear - in lieu of VOL performing at an acceptable level.

You would think that Verizon would be able to provide basic ISP services. SBC uses Yahoo for marketing purposes, which is both a cost factor and probably successful in attracting new customers. Most of their price points are part of their bundled offerings.



The difference between a normal, local ISP and customer service offered by an RBOC has to do with what they will and will not do. Basic service with an RBOC subsidiary covers connectivity issues only, while customer service offered by most local providers also cover computer problems such as virus activity, advertising parasites and Spyware that are eating a computer up and the like. As a comment, I can attest that the worst case of advertising parasite - the most difficult to remove - I have every seen was associated with an ad from Verizon Online.

An RBOC will recommend that the customer take the computer to a local repair shop. In rural areas, often as not, the ISP - is - the local computer shop. I should note that most national providers will not provide a high level of computer help and that doesn't matter much in urban areas. It does matter in rural locations where computer repair shops are few and far between.

As more and more rural providers go bankrupt because they are unable to compete, consumers have fewer options for computer service. Fewer options almost always will mean higher prices. As an example, our computer shop discounts service for our online customers and we will clean virus from a customer's computer without charge if they get one - if they maintain a current anti-virus program on their computer.

Plugging into a typical broadband connection is very much like plugging into an open sewer. Hackers, Spam merchants and virus concentrate on broadband connections because all too often they are always online, soft targets. This raises issues for customer service. Simply put, an ISP that provides broadband should do MORE, not less in provisioning customer service.

As I said, both SBC and Verizon have contracted the services of Yahoo and MSN respectively to "Enhance" their "Enhanced Service." My only thought is that this does not speak well of those two RBOCs' ability to provide commonly available services for their customers.

While there are a number of national and discount providers that only provide limited customer service, local providers typically provide additional services that are not available from national, regional or discount operators. This is especially valid in rural areas. Rural providers will often diagnose computer ailments over the phone that are unrelated to connectivity issues, and many also operate computer repair facilities that will diagnose computer problems for their customer base as a free service and repair computers as needed for both software and hardware issues.

In urban areas, there is always going to be plentiful computer help at some pricing level. But as rural Internet providers are killed off due to a lack of ability to compete, the same level of computer help just isn't going to be available.

Here are a couple of examples of the type of service we can expect to see from our friends, the local telecommunications monopoly. The first example comes from the Washington Post.

"By Jonathan Krim, Washington Post Staff Writer

"For many online users, the idea that their Internet provider was particularly aggressive in cracking down on e-mail spam would be welcome news. But some of Verizon's 3 million high-speed Internet customers say the company is bungling the job and hurting their livelihoods.

"Since mid-December, users have complained on Internet message boards and to Verizon customer service centers that they are not receiving legitimate inbound e-mail from Europe and Asia. Verizon, they say, has taken the unusual step of blocking nearly all mail from certain geographic areas because some networks in those regions are used by spammers.

"My business has been disrupted," said Gerson S. Sher, an independent consultant who works on projects fostering scientific cooperation between the United States and Russia. He said a contract he was negotiating was delayed by several weeks, and another key meeting failed to take place because correspondents could not get e-mail through to him.



"Douglas Place, vice president of Verizon's data network services, said the company is not blocking entire regions, has not changed its policies and is merely doing what most Internet providers do: monitoring its own networks and blocking mail from other networks that Verizon deems to be conduits of large-scale spamming.

"But that explanation does not satisfy Sher, who is especially angry because it has taken weeks and several phone calls to Verizon representatives to get even a rudimentary understanding of what is going on. On his first call, he said, a representative told him that Verizon, like all Internet providers, blocks mail from certain networks because they are known to carry spam and viruses borne by e-mail.

"But Sher was told he merely needed to put any legitimate address from which he was expecting e-mail onto his "white list," which would keep e-mail from that source from being diverted into a spam folder.

"It was bad advice, Verizon officials now acknowledge. When the company blocks certain senders from penetrating its main network, an individual's white list has no effect.

"Speculation that Verizon was blocking whole regions -- a move that would set it apart from other Internet providers in the war on spam -- was fanned in part by an Internet posting last month by a Verizon technical support employee who suggested it was now company policy, Place said.

"The Internet is a chatty community," Place said. "When that popped up, people said 'It must be this.' " Place said the note was not official and that the technician no longer works there.

"Place said some of the furor is possibly being fueled by spammers who want to be better able to reach Verizon users. Two of the complaints the company received, Place said, came from individuals known to be spammers.

"Those explanations are met with a dubious eye by some technical experts.

"Every ISP is desperate to do something about spam," said John R. Levine, who until recently headed a working group developing technical standards for technology to combat spam. By some estimates, spam accounts for more than 70 percent of all e-mail traversing electronic networks, and spammers are adroit in evading barriers thrown up by users and Internet providers.

"But Verizon, Levine said, has been known for anti-spam efforts that were "fabulously not thought through." Levine, who is not a Verizon customer but has talked to many others who are, said he suspects Verizon decided to block mail from all ISPs in certain areas, and then let legitimate ones back on the approved list after they complained.

"At the very least, Levine said, Verizon should be more forthright with its customers. Sher agrees. "They addressed a real problem by taking a sledgehammer rather than a scalpel," he said. "And they have too much invested in their system to change it."

Then we turn to SBC, who decided to block Port 25. This is the computer port that is used for email outbound traffic. While this didn't stop email with an internal SBC address, third party SMTP email was halted in its track. This meant that - for example - an office associated with a larger enterprise couldn't use an email address associated with the enterprise. For example, someone on SBC DSL or dialup couldn't use Outlook Express to originate an email with an address such as name@xyzcorp.com.

Obviously this created howls of outrage from those blocked once they figured out what was going on. SBC said they were working on it as an initial response.

SBC was attempting to block tons of spam coming out of computers on their network that had been hijacked. There are better solutions to the problem, but SBC apparently operates in a vacuum and didn't consider any of them. I am not sure of the outcome of this issue. My informant hasn't sent me an advisory of late.



These are just two examples of institutional arrogance and stupidity that often afflict large corporations attempting to do something positive but lacking a corporate culture of customer service, technological knowledge, and innovation. In other words, phone guys need to stay with what they know and leave the computer business to those who know what they are doing. Yet it would appear that there are regulators and legislators more than willing to turn over the Internet to the phone guys.

When Verizon Online started offering DSL at a rate that I could not match, they were able to convert roughly 20% of my customer base to their service. Reductions in staff and expenses (including health insurance) have allowed me to survive for a little while longer. But as more and more customers migrate to what I believe to be the temporarily low rates of Verizon Online, I will be under more and more bankruptcy pressure. And rates for computer repair will rise. As a combined business, we are able to spread our overhead over both the Internet business and computer repair. As just a computer repair shop, we would have to charge about 80% more on average for repairs to maybe stay in business – assuming consumers could afford the rates.

Simply put, a lot of people need the one-on-one attention that an independent ISP can provide, attention that is simply not available from large, National Internet Providers like Verizon. As market share for those small, independent companies is reduced because of several factors, not the least of which is predatory pricing by Verizon and other Local Exchange Carriers, the ability of the independent to provide service is not only eroded, but is reduced to the point where they cannot survive.

I have been able to survive competition from a wireless operation that was funded by the Department of Agriculture. I have been able to survive AOL's multi-tier pricing and marketing onslaught and all of the "deals" that come with new computers. I was able to compete on a level playing field with Verizon Online's prices, until that company reduced their prices to the point where I cannot compete because I pay Verizon more than Verizon Online charges for ISP service in some cases, and in other cases, the four or nine dollar margin isn't enough to even provide bandwidth due to the cost of bandwidth in rural areas plus Verizon's charges for connecting that bandwidth to their DSL "Cloud."

7. VNXX

We have an interesting situation in Texas.

Level 3 and other CLECs have the ability to order a number group in, for example Brownwood, and direct a LEC to deliver calls to that number group to their distant facility in, for example, San Angelo. The cost for that service is: the first 15 miles are free, and thereafter, the charge is a couple of bucks per DS1.

Thus Level 3, a company that already enjoys a close relationship with Verizon, can have a DS3 circuit, capable of handling 672 simultaneous calls, for way less than \$500 per month. This means that Level 3 has a circuit cost of less than a dollar a port. A port is capable of answering one call, so the capacity of the circuit is 672 calls at the same time. And the circuit isn't even one that is local. In this case, it goes from Brownwood to San Angelo.

Once the call is delivered to Level 3, that company can transport the call to anywhere within their network. This means that the call can then be carried to, for example, Dallas, where calls from other locations can be combined into modem banks. The greater the number of calls in one location, the lower the cost of handling any one call and the lower the port count needed. This has been a basic tenant of Telco operations for generations and is expressed within something called "an Erlang formula." And the cost for bandwidth is much, much lower in Dallas than in Brownwood or San Angelo – pennies on the dollar.

A facilities based, local ISP, must order circuits from Verizon. The tariff charge is \$606.75 plus certain other fees, for 23 PRI circuits. This translates to a charge of \$27.00 per line versus less than \$1.00. The disparity between these two charges is, simply put, unreasonable given the following facts.



Level 3 uses the described circuit solely for the purpose of handling data calls on behalf of those Level 3 customers who purchase the service. For example, AOL contracts with Level 3 to have Level 3 answer calls from AOL customers. Level 3 functions as a wholesale ISP at whatever charge. In other words, Level 3 is using the circuit solely for the purpose of providing what Verizon and others call, "Enhanced Services."

In Texas, Valor and Century Tel have refused to provide VNXX circuits for the purpose of answering data calls. On the other hand, Verizon has had no reluctance in providing VNXX for Level 3 and any other CLEC that asks and goes through the proper ordering cycle. In point of fact, Level 3 may have a contract that specifically allows them to use VNXX circuits for the purpose of answering modem calls.

Which then leads us to the central question. Why would Verizon willingly provide a data circuit for which they are paid less than seven cents on the dollar compared to standard Tariff rates? What is the business case for providing dirt-cheap circuits for Level 3? Could it be that Level 3 has a contract to answer calls for Verizon Online at correspondingly dirt-cheap rates? Could this mean that Verizon Online is able to make very high profits on their dialup customer base so they can then subsidize losses on DSL. Is this a back door means for Verizon to subsidize Verizon Online?

8. Verizon's Petition for Forbearance

This petition contains a number of technical arguments. In addition, it makes analogies that are specious and draws conclusions that are not supported by the facts or by prior and current Verizon business conduct even without Forbearance. One can only guess what Verizon will do if the Commission grants the Petition, but if past behavior is any indication, the ISP industry, as we know it, will be history.

For example:

a. Verizon states that Long Distance carriers handle the bulk of large business traffic, which is factual. So what does this have to do with Forbearance? Does Verizon intend to use its monopoly over the last mile to raise prices on the local loop for data to the point where the 10 or so seriously competitive broadband business providers can no longer compete with a Verizon offering? Verizon is a monopoly and long distance carriers are not. Verizon's broadband network is pointed at residential and local business, not large-scale bandwidth consumers.

b. Verizon states that competition will insure that [their] network is available to wholesale customers at reasonable prices. What competition? What reasonable prices? Although I can think of a dozen reasons why Verizon should be catering and supporting their wholesale customer base, in point of fact, they are attempting to destroy their internal competition even without Forbearance. Obviously the Attorney who drew up the petition is unaware of the reality of how Verizon beats up their wholesale customers.

Here is what Verizon says on this subject in their Petition:

"Similarly, the competitive nature of the broadband market will ensure that broadband will be available to wholesale customers at reasonable rates [what is reasonable?]. In granting forbearance in the Section 271 Order, the Commission stated:

[T]he evidence currently before us, taken as a whole, leads us to conclude that competition from multiple sources and technologies in the retail broadband market, most notably from cable modem broadband providers, will pressure the BOCs to utilize wholesale customers to grow their share of the broadband markets and thus the BOCs will offer such customers reasonable rates and terms in order to retain their business. Verizon plausibly claims that because BOCs face intense intermodal competition they will need to find ways to keep traffic "on-net," which we conclude would likely include the provision of wholesale offerings."

The words "plausibly" and "likely" have no connection with reality. The business practices outlined in this document are real. Simply put, Verizon has adopted business practices calculated to destroy their wholesale customer base, which runs counter to the beliefs of the Commission as stated above.



c. Verizon states correctly that cable isn't subject to the same rules as Verizon. They use that as a reason for Forbearance. This is specious for two reasons; 1) The status of cable service is under judicial review and 2) Cable service isn't ubiquitous and telephone service is, especially in rural areas.

d. Verizon holds out the carrot of investment. Verizon and the other BOCs said the same thing about Congressional legislation as personified in the Tauzin-Dingell Bill. Senator Hollings killed Tauzin-Dingell, but Verizon is investing in broadband anyway - even in towns as small as Gustine, Texas, population 430, where DSL was just installed. In other words, watch what Verizon does, not what Verizon says.

9. Unintended Consequences

It seems likely that broadband services will eventually become a duopoly with cable companies on the one hand and Local Exchange Carriers on the other. Scattered pockets of 802.11 competition and some regulated spectrum cell phone operators will attempt to compete plus expensive satellite service will have some few customers, But mainly most consumers and business will be forced to look to the offerings of cable or Telco for broadband Internet access.

The institutional memory of the FCC and others should have no problem remembering when cell phone competition was limited to a duopoly. It was only after a number of other operators were allowed into the market that rates dropped and service improved. There is no current regulatory climate indicating that the FCC intends for local, independent Internet Providers to survive.

As Independent Internet providers continue the current rate of attrition in rural areas, customer service will be reduced, consumers will have fewer choices and prices will go up for basic computer service.

But it doesn't end there. I have had unconfirmed reports that Cox Cable is stripping the priority bits from VOIP transmissions. If this is true, and it certainly is technically feasible, then this is a good example why regulation is needed to prevent monopolies from exercising, well, monopoly powers.

Representative Stearns has introduced a bill that, if approved as it stands, would end the Independent ISP business up to and including dialup. Given that cable does not have to share its infrastructure with ISPs - subject to a pending court decision - then passing the Stearns bill as it reads would allow any facilities based Telco to charge whatever they want to charge for circuits that transmit data.

Given the direction that large and small local exchange carriers are currently moving, based on what they do as opposed to what they say, it is within the realm of probability that without regulation, even dialup circuits to Independent Internet Providers will be priced at a level that will put them out of what business is left after the business practices of those same LECs monopolize broadband.

Without question, competition has created innovation. As each RBOC and other local exchange carriers stifle competition, among the first consumer loss will be innovation. The reasons for this are simple:

a. Competition creates innovation. Forbearance kills what competition still exists in the face of predatory pricing and business practices.

b. Monopoly providers do not typically innovate. How many examples do you need? Competition was one of the prime reasons for divestiture and regulations that forced competition.

c. Large local exchange carriers, including the Bells, have vendor agreements with a restricted number of long established vendors. New, innovative technology is seldom the product of established RBOC vendors. Both Verizon and SBC could have found solutions to the several problems they attempted to solve with a sledgehammer listed herein - but the companies that have the solution were not on their approved vendor list.

I am not at all sure it is in the best interest of Verizon to kill off ISP competitors. Common knowledge associates a certain percentage of consumers who harbor complete and total disdain, even hatred, for their local phone company. The reasons for this attitude on the part of a certain percentage of the population can be as diverse as long hold times, or that people just don't like monopolies.



Whatever the reason, competition acts as a safety valve for the "phone company." In other words, there is thus a place for those who take exception to the level of service provided by the local Telco. The benefits to the phone company are obvious. This is apropos of nothing except just one more example of why there should be competition instead of a total monopoly.

10. Conclusion

Without question, Verizon has adopted a number of business practices that disadvantage competitive Internet Providers that have contracts with Verizon that should thereby have a level playing field, but don't. While those business practices may or may not be in violation of FCC regulation or illegal in some other way, they are sleazy, especially those centered on slamming and solicitation by Verizon Online after the customer has signed with another ISP.

If I had the funds, I would hire the very best Telecommunications legal specialist not already in the employee of Verizon or another RBOC and file under the Rocket Docket with the FCC. Given that it would strain my budget just to pay for a round trip ticket to Washington, I am unable to do what begs to be done.

I submit that the petition for Forbearance as filed by Verizon and prior to that time by BellSouth, SBC and Qwest, are not in the public interest. I fully recognize that comments on the BellSouth Petition are closed.

In my opinion, the FCC should do the following:

1. Combine all of the Forbearance petitions into one investigation. This is too important a subject to be settled in a haphazard fashion or piecemeal fashion. If the FCC grants Forbearance, then competition has no future. If comment is made otherwise, I respectfully direct attention to what each RBOC is currently doing as opposed to what they might say they will do or have done.

2. Investigate if each RBOC is funding a loss on DSL service by its owned subsidiary with regulated revenues. I find it interesting that while business plans must be filed and updated, I cannot get a firm answer from the FCC whether or not the ARMIS database contains data on DSL.

3. Determine if the herein listed business practices do or do not conform to FCC regulation. Depending on the answer to that question, I have several recommendations:

- a. If it is determined that Verizon is unlawfully making bandwidth available under terms that advantage Verizon Online, stipulate that those same arrangements be made available to other Internet Providers, up to and including bandwidth that is designed for more limited service, such as a T1, or direct Verizon to include in its wholesale price that cost of bandwidth and make that price equal for everyone.

- b. If it is determined that Verizon's co-marketing agreement with Verizon Online should be made available to other wholesale customers, then establish procedures that are bullet proof. Verizon has shown a serious talent for twisting any regulation that has any ambiguity to their advantage.

- c. If it is determined that Verizon is slamming DSL customers and/or soliciting customers of one of their wholesale customers unlawfully, then the FCC needs to direct that those practices not only cease, but also take such other action as FCC regulation require and allow.

4. Determine through required audits and analysis of business plans for unregulated subsidiaries that were supposed to be filed if in fact Verizon and any other RBOC is using regulated revenues to sell DSL below cost. If in fact a determination is made in the affirmative, then require that Verizon divest themselves of some portion of their ill-gotten customer base to their wholesale customers and raise their retail rates or lower their wholesale rates.

Verizon isn't a very good ISP compared to most. I have heard reports that SBC is just about as inept. Cable is still the dominant broadband provider in spite of predatory pricing by Verizon and SBC. Verizon rushed to agree with the Commission in Section 271 order that competitive pressures "... would likely include the provision of wholesale offerings." Verizon conveniently left out the FCC comment "at reasonable prices."



Verizon does offer wholesale contracts, but the price exceeds the lowest retail cost provided by Verizon Online through bundling arrangements. Verizon now offers a very low price for business customers, \$39.95, and allows the first three months FREE. A wholesale customer of Verizon cannot compete with those prices.

The bottom line is simple. What Verizon does is often in conflict with what Verizon says. Through business practices and predatory pricing, it would appear that Verizon is determined to eliminate as much competition as they possibly can and in fact, Verizon Online controls 90% of DSL business done through Verizon at this time. While Verizon says that wholesale customers are good for business, it takes steps to insure that no wholesale customer can compete with the prices charged by Verizon's owned subsidiary. What Verizon does is far more convincing than what Verizon says.

Verizon holds out the prospect of investment while seeking regulatory relief and/or legislation. Yet Verizon has only invested what it wants to invest irrespective of promises during the process of regulatory or legislative proceedings. Verizon has promised to invest and hasn't. Conversely, Verizon has stated they would not invest unless some piece of legislation passed. It didn't and yet Verizon made the investment.

Verizon isn't the evil empire. Verizon is simply doing what its executives believe is in the best interest of themselves and the company as a whole. It is up to the Commission, State Regulatory Agencies and the various legislative bodies to determine to what extent Verizon is allowed to exercise its monopoly power.

Imposed competition built the Internet, drove long distance prices down and added a host of enhanced services to the benefit of the body public - consumers. Everything has gotten cheaper except local dial tone provided by the local telephone monopoly.

During the past few years, the RBOCs and ILECs have succeeded in curtailing competition to the point where hundreds of businesses have been driven into bankruptcy and the old Telco total monopoly is once again in process of being restored. Billions of dollars of investment is now lost.

Yet Verizon and other BOCs tell us that investment is the product of regulatory relief. I respectfully suggest to the Commission that innovation, customer service and the cost of product is best served by competition. And that the denial of Forbearance is in the interest of competition as is the continued audit of Verizon and RBOC business practice and enforcement of regulation that supports competition instead of killing it.

One final comment should be made. RBOCs have terminated employees in wholesale quantity. In addition, their war against competition has caused wholesale layoffs as companies downsized and went bankrupt. Over 3,000 Internet Providers have ceased to exist, with some percentage because of RBOC policy, and more, many more, to come.

As BOCs tighten their monopoly stranglehold over all things telecom with or without the blessing of the Commission, the economic repercussions will extend to not only more unemployment in the Telecom arena, but also to the ranks of innovative small companies who are not on the approved list as RBOC vendors.

The FCC is not accountable for generating jobs. But it is accountable for a healthy and competitive marketplace, something that by any measure is rapidly ceasing to exist one small incremental step at a time, thanks to concessions made to the army of lawyers and lobbyists deployed by the RBOCs.

This is the end of comments to the Commission.

Since I know that Verizon and as likely other BOCs and ILECs will read this, I am going to take the opportunity to make a few pointed comments to those entities, for whatever good it will do. I will be brief.

I recognize that there are a lot of highly paid executives at the phone company (generic) who believe it is in their best interest and the best interest of their company to reestablish the old Telco monopoly. I suspect that many of them are surprised at how easy it has been to move forward. That said, in the arena of Internet Service, I believe that it is not in the best interest of the phone company to kill off their partners and thus be left to go head-to-head with what will be their only serious competition, cable companies.



Simply put, dial tone customer service is absolutely first rate. In the rare instances where telephone service fails, a local phone company has someone available to take the trouble call and someone in the field, if needed, to restore service, in most cases with no more than a days delay. During times of disaster, there is nobody better than the phone company. That doesn't translate into great Internet Service.

The Internet has undergone major changes in the past year. Advertising Parasites, Spyware, Malware and the like have become more epidemic than virus, which in itself is still a major pest. Computers have aged and become out of date and less reliable. More and more less savvy people are attempting to use the Internet for their own purposes. Telephone companies are really good at servicing the telephone wire network and hardware along with switches.

Internet customer service means individual software on individual customer's computers and to some extent, training of individual customers. This isn't something that telephone companies deal with effectively.

There is less and less customer service available for those who need it. Large National providers have moved their service offshore; discount providers have started charging by the minute for service. Simply put, Internet users are fast becoming disenchanted with the service provided and the risks involved in being on the web. As Verizon well knows, good customer service is expensive to provide, especially in rural areas.

Yet, as said, there is a need for more and better customer service, not less.

Well, here we are, your best bet to compete with the cable companies – who are charging a higher price than your retail rates. We are already your wholesale customers. And if you would support us instead of killing us off, we could provide the level of customer service that is now needed - especially in rural areas where you are now installing DSL facilities at an accelerated rate.

We can roll the trucks with computer professionals in them to customer's premise. We fix computers. We network computers – after all, if you kill us off, who is going to support all that broadband you provide? And we can provide the level of quality customer service that is increasingly difficult and expensive to provide through conventional banks of technicians with hold times and sometimes helpful, sometimes not, computer and Internet advice.

I do customer service for a living. There is a place for someone who can say, "Ok, you have a real problem. Why don't you bring it in to the shop for a free diagnosis?" Verizon, you can't do that, I can.

And if you allow real broadband competition, there is far less chance that someone is going to start screaming "divestiture" again, as well they might, otherwise.

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